

REMARKS

INTRODUCTION

In accordance with the following, reconsideration of the allowability of the pending claims is respectfully submitted.

Claims 1-2 and 10-17 stand rejected, claims 5-9 have been withdrawn from consideration, and claim 3 and 4 have been indicated as including allowable subject matter.

In view of the following remarks, reconsideration of the finality of the outstanding Office Action, as well as the allowability of the pending claims, is respectfully requested.

Claims 1-17 are pending, and claims 1-4 and 10-17 are under consideration.

OUTSTANDING INTERPRETATION OF "E-COMMERCE"

The outstanding Office Action would not appear to have properly considered the claim terms "e-commerce."

The independent claims particularly detail that the claimed invention is implemented in an e-commerce installation. For example, independent claim 1 further identifies that the e-commerce installation is organized into a plurality of tiers each having different e-commerce responsibilities. Similarly, independent claim 2 identifies one tier as a transaction services tier in the corresponding e-commerce installation. Similarly, independent claim 10 identifies the e-commerce installation, a transaction server, and the performing of a user transaction test and reporting of user transaction test results, for example. Lastly, independent claim 14 again identifies the e-commerce installation and claims a tier of servers each with different e-commerce responsibilities.

Thus, the presently claimed invention is implemented in an e-commerce environment, and accordingly, any reference relied upon to disclose the same must similarly be capable of such e-commerce implementation.

Contrary to the above, the Office Action would appear to be relying on the disclosure of "e-mail" in the applicant provided Concept Guide. However, e-mail is not the same as e-commerce.

The same Concept Guide particularly identifies that the same does not cover e-commerce. See the preface page iii, stating:

"Firehunter is a highly customizable and scalable Service Management solution that enables ISPs and Enterprise/IT providers to deliver managed value-added services with assured

and verified quality. Firehunter can automatically measure, monitor and verify "carrier-grade" quality for the Internet services you offer. It provides the service assurance and reporting capabilities needed to differentiate your service offerings with SLA guarantees, starting with mail, news and web and expanding in the future to a full suite of value-added services such as Web-Hosting, Virtual Private Network (VPN), and E-Commerce.

Again, as noted in the Concept Guide, the Firehunter product relied upon in the Office Action to disclose the claimed e-commerce **does not** cover e-commerce. The Concept **Guide particularly notes that a Firehunter product was not then available for e-commerce.**

Thus, the email discussed in the Concept Guide is defined in the Concept Guide as not being e-commerce.

Further, as noted previously, the present specification in paragraph [0019] clearly indicates that the present invention's application for e-commerce is related to at least "key business and financial measures such as the number of new orders per minute, the dollar volume of completed orders per minute, the number of abandoned 'shopping cars' per minute, etc."

Still further, applicants have attached exemplary brief definitions of e-commerce produced through a very brief keyword search on the Internet. As noted therein, available definitions for e-commerce include: "Electric commerce: the conducting of business communication and transactions over networks and through computers. Specifically, ecommerce is the buying and selling of goods and services, and the transfer of funds, through digital communications;" "The process of selling products or services via the Web;" "Internet facilitated commerce, using electronic means for promoting, selling, distributing, and servicing products;" and "Electronic commerce or e-commerce consists of the buying, selling, marketing, and servicing of products or services over computer networks. The information technology industry might see it as an electronic business application aimed at commercial transactions," noting that these are only examples.

The underpinnings of a server installation would be different for an email installation compared to an e-commerce installation. Thus, the two are not synonymous.

Accordingly, it is respectfully submitted that the term "e-commerce" is not a generic word for anything related to electronics, or the Internet. The present specification, the Office Action relied upon Concept Guide, and even common definitions of e-commerce clearly evidence that the term e-commerce must be given patentable weight. The term cannot be overlooked or considered synonymous to any other "e" type service.

As the outstanding Office Action rejections are all based on a different interpretation of e-commerce, e.g., anything having to do with "e" services such as email, and as the same interpretation is incorrect, reconsideration of the outstanding rejections is respectfully requested.

REJECTION UNDER 35 USC 102

Claims 1 and 2 stands rejected under 35 USC § 102 as being anticipated by Concept Guide, HP Firehunter Concept Guide previously provided by Applicant.

As noted above, it is respectfully submitted that the interpreted operations within Concept Guide do not disclose the claimed e-commerce implementation, as claimed.

It is respectfully submitted that Concept Guide fails to disclose or suggest at least the claimed server being tiered based on e-commerce responsibilities, the claimed e-commerce installation, the claimed e-commerce transaction server, nor the claimed invention as a whole in the e-commerce installation, for example.

In addition, as particularly detailed in Concept Guide, Concept Guide was **not designed to monitor e-commerce** as a process, as claimed.

Therefore, for at least the above, it is respectfully requested that this rejection be withdrawn and claims 1 and 2 be allowed. For at least similar rationale, it is respectfully submitted that claims depending from claims 1 and 2 are equally in proper condition for allowance.

In addition, it is respectfully submitted that it would not have been obvious to modify Concept Guide to disclose the presently claimed invention. The aforementioned notation within Concept Guide that the same is not applicable to e-commerce and that the same would be implemented in future products evidences that the claimed invention would not have been obvious at the time of the invention.

REJECTION UNDER 35 USC 103

Claims 10-17 stand rejected under 35 USC § 103(a) as being obvious over Concept Guide, in view of Firehunter (Firehunter/L 3.0). This rejection is respectfully traversed.

Again, similar to above, it is respectfully submitted that the claimed e-commerce installation has not been given sufficient patentable weight. For example, regarding the claimed tiers each having their own e-commerce responsibilities, the Office Action relies merely relies on the web, smtp and pop3, email, and news services discussed in Concept Guide. However, none of these differing services would appear to have e-commerce responsibilities.

Further, to disclose a feature interpreted as being missing in Concept Guide, the Office Action relies on one of the recited graphing capability benefits for Firehunter, which particularly recites: "Allows you to differentiate services and generate added revenues with sophisticated reporting, including multi-line graphs and Web-based reporting."

In particular, here, the Office Action is relying on Firehunter to disclose "measuring business performance data comprising monetary volume transacted by the e-commerce installation during a time period."

However, the above recitation from Firehunter is completely unrelated to this claim feature. The above recitation in Firehunter is puffery discussing the advantages of implementing Firehunter, i.e., that by implementing Firehunter the customer will be able to provide additional services to their end users and thereby increase their/enduser revenues.

This recitation is incredibly similar to a recitation in Concept Guide, page iii of the preface, reciting: "As an Internet service provider, you know by now that the only sure way to grow market share and glean profits from revenues is to offer your customers unique value-added services and to back those services with comprehensive quality guarantees."

Thus, the relied upon portion of Firehunter does not disclose or suggest what the Office Action is relying on Firehunter to disclose or suggest.

Accordingly, it is respectfully submitted that neither Concept Guide nor Firehunter, alone or in combination, disclose or suggest the claimed features of the presently claimed invention, as a whole.

Therefore, for at least the above, it is respectfully requested that this rejection of independent claims 10 and 14 be withdrawn and independent claims 10 and 14 be allowed. For at least similar rationale, it is respectfully submitted that claims depending from independent claims 10 and 14 are also in proper condition for allowance.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

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Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Respectfully submitted,

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